IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 8031 of 2005

Between:

Vallamalla Babu Rao, S/o. Raja Rathnam, Aged 31 Years,
R/o. Lakshmindevipally Village, Somulugudem

Grampanchayat, Palvancha (M), Khammam District.

..... PETITIONER

AND

1 The District Panchayat Officer,

Zilla Parishad Office, Khammam.
2 The Panchayat Secretary,

Somulugudem Grampanchayat, Somulugudem,

Paloncha Mandal, Khammam District.
3 Banothu Veeru Naik, Sarpanch, Somulugudem,

Paloncha Mandal, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction more particularly in the nature of Mandamus declaring the order in RC.No. P6/119/2005 dated 18-3-2005 passed by the District Panchayat Officer, Khammam modifying the earlier order dated 16-2-

2005 is illegal and without jurisdiction and to pass such other order orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.N.SUBBA RAO

Counsel for the Respondent No.1 & 2: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.3: None appeared.

The Court at the stage of admission made the following :

ORDER:

The petitioner was elected as a Member of the Somulugudem Gram Panchayath, that were held on 17.8.2001 and under Sec. 14(9) of the A.P. Panchayath Raj Act, 1994, as Upa Sarpanch of the said panchayat. The third respondent who was elected as Sarpanch in 2001 elections, got a lease for lifting sand from Godavari River at Patha Gommuru for a the period from 5.10.2004 to 4.10.2005, from the first respondent, by order dated 4.10.2004, as such, he incurred disqualification under Sec. 19(2)(d) of the Act by proceedings dated 16.2.2005, therefore, in view of the vacancy that fell due to the disqualification of the third respondent, the petitioner being Upa Sarpanch is entitled to exercise the powers and perform the functions of Sarpanch under Sec. 26(1) of the Act until a new Sarpanch is elected, as such, he is discharging the functions of the Sarpanch with effect from 17.2.2005. Questioning the order dated 16.2.2005, the third respondent filed OP No. 170 of 2005 before the Dist. Judge, Khammam under Sec. 22(1) of the Act, stating that he entered into an agreement of lease on 1.10.2004 and the District Collector confirmed the lease on 4.10.2004 and no interlocutory orders were passed in the said O.P. After filing the OP, the third respondent filed an application before the 1st respondents and the first respondent passed the impugned order stating that the third respondent is entitled to act as Sarpanch pending disposal of the O.P. Aggrieved of the same, the petitioner came up with the present writ petition.

Though the writ petition is pending from 12.4.2005, the respondents

did not chose to file any counter.

Prima facie, in compliance of Sec. 22 of the Act, the disqualified Member i.e. the 3rd respondent has filed the O.P. before the District Judge, Khammam and, evidently, no orders are passed as yet, by the learned District Judge. Therefore, the third respondent is entitled to continue as Sarpanch in terms of Sec. 22(2) of the Act, as such I do not see any illegality committed by the respondent No.1 in passing the impugned order. Consequently, the impugned order is held to be valid. However, having regard to the facts and circumstances of the case and the submission of the learned counsel for the petitioner, I deem it appropriate to direct the learned District Judge, Khammam to dispose of O.P. No. 170 of 2005, within a period of six months from the date of receipt of a copy of this order. With this direction, the writ petition stands disposed of. No order as to costs.

Elipe Dharma Rao, J.

June 13, 2005

MAS

To

1 The District Panchayat Officer,

Zilla Parishad Office, Khammam.

2 The Panchayat Secretary,

Somulugudem Grampanchayat, Somulugudem,

Paloncha Mandal, Khammam District.

3 2 CCs to the Govt. Pleader for Panchayath Raj and Rural

Development, A.P.High Court Buildings, Hyderabad.

4 2 CD copies

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